

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES L. McPHADEN,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

NO. CR95-5828JET

ORDER

THIS MATTER comes on before the above-entitled Court upon Defendant's Motion For Correction or Amendment of Record, and Rule 35 Motion for Correction or Reduction of Sentence.

Having considered the entirety of the records and file herein, the Court finds and rules as follows:

1 Defendant's Motion For Correction or Amendment of Record is properly characterized as a
2 motion under 28 U.S.C. §2255. Defendant's Rule 35 motion is also properly characterized
3 as a motion under 28 U.S.C. §2255. Both of Defendant's motions challenge the legality of his
4 sentence. Defendant previously challenged the same sentence in a 2255 motion, which was
5 adjudicated on the merits. Defendant's motions constitute second or successive motions. Defendant
6 has not been granted authority from the Ninth Circuit to file a second or successive motion to vacate
7 his sentence. Accordingly, Defendant's motions are DISMISSED.

8 IT IS SO ORDERED.

9 The clerk of the court is instructed to send uncertified copies of this Order to all counsel of
10 record.

11 DATED this 7th day of July, 2005.

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13 /s JACK E. TANNER

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15 JACK E. TANNER
16 SR. UNITED STATES DISTRICT JUDGE
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